

CHAPTER 22.16 - SURFACE MINING AND RECLAMATION*

* Prior ordinance history: Ord. No. 3263, adopted 1979; Ord. No. 3283, adopted 1979; and Ord. No. 3890, adopted 1994.

Sec. 22.16.010 - Purpose and Intent.

This Chapter is adopted pursuant to the provisions of the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.). Nothing contained herein is intended to abridge the provisions of that Act as adopted or subsequently amended.

It is the intent of the Board of Supervisors of the County of Mendocino to create and maintain through periodic review and appropriate revision, an effective and comprehensive surface mining and reclamation policy for the regulation of surface mining operations, which policy, in conjunction with the County's environmental review process and the regulations of other agencies having jurisdiction, will assure that:

- (A) Adverse environmental effects of surface mining operations are minimized, or, if possible, prevented, and that mined lands are reclaimed to a usable condition which is readily adaptable for appropriate alternative land uses;
- (B) The production and conservation of minerals is encouraged, while giving consideration to values relating to recreation, watershed, wildlife, fisheries, range and forage, and aesthetic enjoyment;
- (C) Residual hazards to the public health and safety are eliminated.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.020 - Scope.

The provisions of this Chapter shall apply to surface mining operations and reclamation of mined lands within the unincorporated areas of Mendocino County. The provisions of this Chapter have been designed to encompass streambed gravel extraction, borrow pits, quarry operations and other surface mining operations conducted in Mendocino County.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.030 - Incorporation of SMARA and other State Regulations.

The provisions of the California Surface Mining and Reclamation Act of 1975 (Public Resources Code Section 2710 et seq.), Public Resources Code Section 2207, and the California Code of Regulations implementing the Act (14 CCR Sections 3500 et seq., 14 CCR Sections 3675 and 3676, and 14 CCR Article 9, Chapter 8, Sections 3700 et seq.) and 11 CCR Article 53, Chapter 2, Division I, Sections 115.1—115.5 as those provisions may be amended from time to time, are made a part of this Chapter by reference with the same

force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this Chapter are more restrictive than correlative State provisions, this Chapter shall prevail.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.040 - Exemptions.

No permit or reclamation plan shall be required by this Chapter for the following:

- (A) Surface mining operations, including prospecting and exploration, so long as the mined lands do not exceed one (1) acre in extent and the total amount of material, including overburden, displaced does not exceed a cumulative total of one thousand (1,000) cubic yards. For the purpose of determining the area subject to this exemption, large ownerships may have more than one (1) mined land where different mined lands may be entitled to separate exemptions if they have clearly separate and distinct locations and characteristics such as the type of the principal mineral commodities, overburden, topography, geology, climate, viewshed, airshed, watershed, stream characteristics and access routes.
- (B) Excavation or grading conducted for farming, forest management or timber harvesting operations where the excavated material is not removed from the property (ownership). Activities may include grading, re-contouring, tilling, cultivating, and construction and maintenance of roads, ponds drainage improvements and similar features commonly associated with agricultural and timber uses. The exemption for forest management/timber harvesting activities shall only apply where such activities are conducted in connection with a State approved Timber Harvest Plan, State approved Timber Management Plan or other timber related activity where slope stability, erosion and site closure are controlled in consultation with the California Department of Forestry and Fire Protection, and shall not apply to any excavation or grading which occurs within one hundred (100) feet of a Class One watercourse, seventy-five (75) feet of a Class Two watercourse, or twenty-five (25) feet of a Class Three watercourse. Gravel extraction from stream channels where materials are removed from the floodway shall not exceed the limits specified in Section 22.16.040 (A) above.
- (C) On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
 - (1) All required permits for the construction, grading, landscaping, or related land improvements must be obtained in accordance with applicable provisions of State law and County adopted plans and ordinances, including, but not limited to the California Environmental Quality Act (CEQA).

- (2) The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA.
 - (3) The approved construction project is consistent with the General Plan or zoning of the site.
 - (4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- (D) Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:
- (1) The plant site is located on lands designated for industrial uses in the General Plan.
 - (2) The plant site is located on lands zoned industrial.
 - (3) None of the minerals being processed are being extracted on-site.
 - (4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on-site after January 1, 1976.
- (E) Excavation or grading for the purpose of restoring land following a flood or natural disaster. Gravel extraction from stream channels shall not exceed the limits specified in Section 22.16.040(A).
- (F) Surface mining operations and emergency excavations and grading conducted by the California Department of Water Resources or the Reclamation Board as specified in Public Resources Code Sections 2714(h) and (i).
- (G) Surface mining operations that are required by Federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.
- (H) Such other surface mining operations which the State Mining and Geology Board determines to be of an infrequent nature, and which involve only minor surface disturbances.
- (I) An exemption under this Ordinance does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including but not limited to the application of CEQA (Public Resources Code Sections 21000 et. seq.), the requirement of use permits, grading permits, or other permits, or the imposition of monitoring fees or exactions as may be permitted by law.
- (J) Any person desiring a determination of exemption from this Chapter may request such a written determination by submitting a complete written description of the proposed project or activity and its location together with a filing fee to the Department of Planning and Building Services.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.050 - Definitions.

Unless the context otherwise requires, the definitions set forth in this Section shall govern the administration of this Chapter.

- (1) "Abandon" or "abandonment" means to cease surface mining prior to completion of required reclamation, or to cease surface mining whether or not actual reclamation has commenced, or both. Unless review of an interim management plan is pending before the Department of Planning and Building Services, or an appeal is pending, a surface mining operation which remains idle for over one (1) year after becoming idle as defined in PRC Section 2727.1, without obtaining approval of an interim management plan shall be considered abandoned.
- (2) "Area of regional significance" means an area designated by the State Mining and Geology Board pursuant to Public Resources Code 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local significance.
- (3) "Area of statewide significance" means an area designated by the State Mining and Geology Board pursuant to Public Resources Code 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.
- (4) "Aggradation" means the natural filling of the bed of a water course by deposition of detritus carried by flowing water. This is often accompanied by channel widening.
- (5) "Bedload" or "sediment discharged as bedload" means both the sediment that moves along in continuous contact with the streambed and the material that bounces along the bed in short skips.
- (6) "Berm" means an elongated earthen structure which acts as a barrier, to make it difficult for a vehicle to cross, or to redirect the flow of water.
- (7) "Bench" means a relatively level step excavated into earth material on which fill is to be placed.
- (8) "CEQA" means the California Environmental Quality Act, Public Resources Code Section 21000 et. seq.
- (9) "Compatible land use" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.
- (10) "County" means the County of Mendocino, State of California.
- (11) "Degradation" means the removal or under supply of streambed material through erosion and transportation by flowing water. This is often accompanied by narrowing and deepening of the channel.
- (12) "Director" means the Director of the Mendocino County Department of Planning and Building Services or his designee.

- (13) "Excavation" means the mechanical removal of earth material.
- (14) "Farming" means the management and/or cultivation of land for the production of crops and livestock.
- (15) "Financial assurance" means an assurance that a surface mining operation will be reclaimed in accordance with the approved reclamation plan. The financial assurance may take the form of surety bonds, trust funds, irrevocable letters of credit or other financial assurance mechanisms acceptable to both the County and the State Mining and Geology Board (SMGB).
- (16) "Gravel extraction operations" means all or any part of the process involved in the removal by any method of sand, gravel, rock, or other earthen material from streambeds or stream channel bars normally subject to inundation during winter flows. Gravel extraction operations shall include but are not limited to:
- (a) Onsite processing of extracted material, including screening, washing, crushing, stockpiling or batching;
 - (b) The production and disposal of mining waste;
 - (c) Prospecting and exploratory activities.
- (17) "Highwall" means the unexcavated face of exposed overburden and ore in a surface mine.
- (18) "Indigenous plants" means plants occurring naturally in an area, not introduced.
- (19) "Incompatible land use" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial and commercial.
- (20) "Idle" means to curtail for a period of one (1) year or more surface mining operations by more than ninety percent (90%) of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.
- (21) "Lead agency" means the County of Mendocino which has the primary responsibility for enforcing SMARA.
- (22) "Mined lands" means the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.
- (23) "Mineral" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and

petroleum. For the purpose of this Chapter, minerals shall also include, but not limited to sand, gravel, aggregate, decorative stone, shale and rip-rap.

- (24) "Mining waste" means the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.
- (25) "Minor modification" means an amendment to a reclamation plan involving insignificant changes and does not require review under CEQA.
- (26) "Native plant species" means plant species indigenous to California, using pre-European as the historic time reference.
- (27) "OMR" means the Office of Mine Reclamation in the Department of Conservation, State of California.
- (28) "On-site construction" means the construction of buildings, roads or other improvements including landscaping, excavation and grading required to prepare a site for construction of structures, landscaping or other land improvements, and which is beneficially modified by such construction, is not deemed to be a surface mining operation. Additionally, all required permits for the construction, landscaping, or related land improvements must be obtained from the County in accordance with applicable provisions of State law and locally adopted plans and ordinances.
- (29) "Operator" means any person who is engaged in surface mining operations himself or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation. Operator also means any person who permits others to conduct surface mining operations on his or her property and who receives a financial benefit therefrom.
- (30) "Overburden" means soil, rock or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.
- (31) "Person" means any individual, firm, association, corporation, organization, or partnership, or any city, county, district or state or any department or agency thereof.
- (32) "Permit" means any authorization from, or approval by, a lead agency, the absence of which would preclude surface mining operations.
- (33) "PRC" means the Public Resources Code.
- (34) "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.
- (35)

"Replenishment" means the volume of material brought into and deposited in the channel of a given reach of stream in a given time period through bedload movement, stream bank erosion, landslides, slumps, or sheet and gully erosion. This volume is in addition to the volume deposited in the previous time period.

- (36) "Riparian vegetation" means vegetation situated on the bank of a stream, river, or other body of water.
- (37) "SMARA" means the Surface Mining and Reclamation Act of 1975 and subsequent amendments, Public Resources Code Section 2710 et. seq.
- (38) "Sediment" means material, both mineral and organic, that is transported by, suspended in, or deposited by water, air, ice, gravity, organisms, or combinations thereof.
- (39) "State Board" means the State Mining and Geology Board in the Department of Conservation, State of California.
- (40) "Streambed skimming" means the excavation of sand and gravel from streambed deposits above the mean summer water level or thalweg, whichever is higher. (Also often referred to as "gravel bar skimming.")
- (41) "Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:
 - (a) In place distillation or retorting or leaching;
 - (b) The production and disposal of mining waste;
 - (c) Prospecting and exploratory activities;
 - (d) Gravel extraction operations;
 - (e) Borrow pits;
 - (f) Segregation and stockpiling of mined materials (and recovery of same).
- (42) "Suspended sediment" means sediment that is moved in suspension in water and is maintained in suspension by the upward components of turbulent currents or by colloidal suspension.
- (43) "Terrace" means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.
- (44) "Thalweg" means the imaginary line joining the deepest points of a stream channel (stream bottom).
- (45) "Topsoil" means the upper part of the soil profile that is relatively rich in humus, which is typically known as the "A-horizon" of the soil profile.
- (46) "Turbidity" means a condition where water is cloudy or muddy due to the presence of suspended matter such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.060 - Permit and Reclamation Plan Required.

Except as specified in Section 22.16.040 and Section 22.16.150, no person shall conduct surface mining operations unless a permit is obtained from, and a reclamation plan has been submitted to, and approved by, the Planning Commission for such operation pursuant to this Article. Although a use permit is not required for vested operations, regardless of vesting status, all surface mines shall have an approved reclamation plan. A use permit shall be required for the expansion of a mining operation beyond the boundaries of the vested area. As part of the use permit and reclamation plan process, the Planning Commission shall hold a minimum of one (1) public hearing.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.070 - Permit Operational Standards.

In addition to meeting the minimum acceptable surface mining and reclamation practices in the Act and policy guidelines, each surface mining operation requiring a permit shall be conducted and designed to meet the following operational standards. Conditions may be imposed on mining permits to ensure compliance with minimum acceptable practices and standards.

- (A) **Access Roads.** All private access approaches leading off any paved public street onto a mining site shall be adequately surfaced to prevent aggregate or other materials being drawn onto the public right-of-way.
- (B) **Dust Suppression.** All haul roads and driveways shall be maintained as necessary to minimize the emission of dust. Maintenance shall be conducted as necessary to prevent a nuisance to adjacent properties. Special maintenance procedures (watering, or other acceptable dust palliative, etc.) may be placed on the permit.
- (C) **Driveway Encroachment Permit.** If required, a Driveway Encroachment Permit issued by the Mendocino County Department of Transportation shall be a condition of the mining permit.
- (D) Any waters discharged from the site to adjacent lands, streams, or bodies of water or to any groundwater body shall meet all applicable water quality standards of the Regional Water Quality Control Board and any other agency with authority over such discharges. Records of any water quality monitoring conducted in conjunction with the requirements of such agency or agencies shall be made available to the Director on request. Discharges of water to designated on-site settling ponds or desilting basins shall not be deemed to be in violation of this part solely on the basis of sediment content.
- (E) During the period mining operations are being conducted, and prior to final reclamation of mined lands, measures shall be taken to prevent erosion of adjacent lands from waters discharged from the site of mining operations and the off-site discharge of sediment. Such measures may include

the construction of properly designed retarding basins, settling ponds and other water treatment facilities, ditches, diking and revegetation of slopes. Settling ponds and other water treatment facilities shall be located and managed so that accumulated sediment will not enter any stream.

- (F) Grades in areas being mined shall be maintained so as to avoid accumulations of water that could serve as breeding areas for mosquitoes or as sites of fish entrapment.
- (G) Excavations which may penetrate near or into usable water bearing stratas shall not substantially reduce the transmissivity or area through which water may flow unless approved equivalent transmissivity or area has been provided elsewhere, nor subject such groundwater basin or subbasin to pollution or contamination.
- (H) Permits issued for surface mining operations proposed to be conducted between the banks of a stream may include as conditions any measures or conditions imposed by other agencies of jurisdiction, for example, but not limited to, the Department of Fish and Game, the National Marine Fisheries Service, the North Coast Regional Water Quality Control Board, and the Army Corps of Engineers. Copies of conditions imposed by such agencies shall be on file with the Department of Planning and Building Services before any permit issued by Mendocino County shall be deemed to be in effect.
- (I) All operators of mining operations requiring mining permits and/or reclamation plan approvals shall annually supply to the Director no later than June 1st of each year an annual report which identifies the quantities and types of materials displaced, processed, stockpiled and hauled off-site.
- (J) Noise levels created by the operation as measured at the nearest residence other than that of the mine owner or operator shall not exceed the following:
 - (1) Sixty-five (65) dB(A) for a cumulative period more than thirty (30) minutes in any hour;
 - (2) Seventy (70) dB(A) for a cumulative period more than twelve (12) minutes in any hour;
 - (3) Seventy-five (75) dB(A) for a cumulative period more than three (3) minutes in any hour;
 - (4) Eighty (80) dB(A) for a cumulative period more than one (1) minute in any hour;
 - (5) Eighty-five (85) dB(A) at any moment;
 - (6) More stringent noise standards may be required as permit conditions when particular local circumstances warrant additional protection of potentially affected residences.

Any noise control measures prescribed by the lead agency as a condition of a permit shall in no manner be interpreted as to preclude the application to the surface mining site of future noise control measures adopted by the County subsequent to the granting of the permit.

- (K) Any permit which is not used within two (2) years from the effective date thereof shall be null and void. For the purpose of this Section, the requirement that the permit be used shall be met either by the beginning of a substantial surface mining operation in accordance with the approved mining plan, or by demonstrating that the permittee has incurred substantial expense in an attempt to

secure required permits at the State or Federal level, but that, despite due diligence, the permits have not yet been issued, and that it is probable that they will be issued within an additional eighteen (18) months from the expiration of the two (2) year period.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.080 - Reclamation Plan Form and Content.

The reclamation plan shall comply with the provisions of the Surface Mining and Reclamation Act and State Mining Board Reclamation Regulations.

The reclamation plan shall be filed with the Department of Planning and Building Services on a form provided by the County, by any person who owns, leases, or otherwise controls or operates on all, or any portion of, any mined lands, and who plans to conduct surface mining operations thereon. The reclamation plan shall be signed by the applicant and either the principal mining engineer or some other qualified person responsible for drawing up the plans who is acceptable to the Director. For projects exceeding a cumulative total extraction of five thousand (5,000) cubic yards of material, the reclamation plan shall be prepared by a qualified engineer or geotechnical consulting firm or other qualified person acceptable to the Director. The reclamation plan shall include the following information:

- (A) Name and address of the applicant;
- (B) Name and address of the property owner or owner of surface rights;
- (C) Name and address of owner of mineral rights;
- (D) Name and address of lessee;
- (E) Name and address of operator;
- (F) Name and address of person designated by operator as his agent for the service of process;
- (G) Assessor's parcel number(s);
- (H) Legal description of the subject property;
- (I) Site development plan drawn at a scale specified by the Director, which includes the following information:
 - (1) Property boundary lines and dimensions,
 - (2) Areas proposed for development,
 - (3) Location of proposed buildings and structures,
 - (4) Parking and vehicle maneuvering areas,
 - (5) Method of vehicular access,
 - (6) Location of any existing or proposed roads, streams, railroads, water lines, other pipelines, utility facilities, easements, and any existing buildings, structures, or major areas of use for the property being considered,
 - (7) Height, type, and location of fencing,

- (8) Such additional information as may be deemed necessary to permit adequate consideration of the proposal,
- (9) Aerial photograph of the project site;
- (J) A vicinity map showing all proposed access routes and a statement as to the method proposed for transporting mined materials from the site;
- (K) A sufficient number of cross-sections of the area to show existing grades and proposed finished grades after all surface mining has been completed shall be provided; such cross-sections shall be drawn to an engineer's scale that is practical and workable;
- (L) The anticipated quantity and type of minerals, including the amounts of over burden and waste for which the surface mining operation is to be conducted;
- (M) The proposed dates for the initiation and termination of such operation;
- (N) The maximum anticipated depth of the surface mining operation;
- (O) Proposed plans shall include a reclamation phasing schedule where appropriate, which is consistent with the phasing of the mining operation. Reclamation shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation measures may also be required for areas that have been disturbed and will be disturbed again in future operations. The phasing schedule shall include the following minimum components:
 - (1) The beginning and expected ending dates for each phase,
 - (2) A clear description of all reclamation activities,
 - (3) Criteria for measuring completion of each specific activity,
 - (4) Estimated costs for each phase of reclamation as described in Section 22.16.080(T);
- (P) A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;
- (Q) A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including:
 - (1) A description of the manner in which contaminants will be controlled and mining waste will be disposed, and
 - (2) A description of the manner in which affected streambed channels and streambanks will be protected and/or rehabilitated to a condition minimizing erosion and sedimentation,
 - (3) A description of existing wildlife habitat and a plan to ensure that habitat conditions which exist are maintained or improved in the course of reclamation, unless the proposed end use precludes its use as wildlife habitat,
 - (4) A description of the manner in which backfilling, regrading, slope stabilization, scarification, ripping, and recontouring will occur,
 - (5)

A description of existing soil types and vegetation, and the manner in which topsoil will be salvaged and the manner in which the site will be revegetated,

- (6) A description of any existing topographical features that will be significantly altered as a result of mining activity,
 - (7) A description of the manner in which existing site drainage patterns will be disturbed through mining activity and a description of drainage patterns that are expected after site reclamation,
 - (8) A description of the manner in which all buildings, structures and equipment will be removed, including any previously abandoned structures or equipment,
 - (9) A description of the necessity for and the manner in which post reclamation monitoring will occur,
 - (10) An assessment of the effect of implementation of the reclamation plan on future mining in the area,
 - (11) An assessment of the impact of the project on the public health and safety, including discussion of the degree and type of present and probably future exposure of the public to the project site;
- (R) A statement that the person submitting the plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan;
- (S) The reclamation plan shall, to the extent feasible, provide for the protection and reclamation of the visual resources of the area affected by the mining operation. Measures may include, but not be limited to, resoiling, recontouring of the land to be compatible with the surrounding natural topography, and revegetation and the end use of uses specified by the landowner. Where the mining operation requires the leveling, cutting, removal, or other alteration of ridgelines on slopes of twenty percent (20%) or more, the reclamation plan shall ensure that such mined areas are found compatible with the surrounding natural topography and other resources of the site;
- (T) A detailed line item cost breakdown estimating all reclamation costs, including, but not limited to:
- (1) Costs of backfilling, regrading, slope stabilization, and recontouring,
 - (2) Costs of revegetation and wildlife habitat replacement,
 - (3) Costs of final engineering design,
 - (4) Costs of labor, including supervision,
 - (5) Costs of mobilization,
 - (6) Costs of equipment,
 - (7) Costs of removal of buildings, structures, and equipment,
 - (8) Costs associated with reduction of specific hazards, such as: heap leaching facilities, chemical processing ponds, soil decontaminations, in-water slopes, highwalls, landslides, subsidence, or other mass ground failure,
 - (9) Costs of drainage and erosion control measures,

- (10) Costs of soil tests,
- (11) Costs of haul road ripping and reseeded,
- (12) Costs of fencing,
- (13) Costs of liability insurance,
- (14) Costs of long-term stabilization, control, containment of waste solids and liquids;
- (U) A statement from a California registered professional engineer, geologist, engineering geologist, forester, or other professional acceptable to the Director, which states that the estimated costs of reclamation have been reviewed and found to be sufficient by that professional;
- (V) Any other information determined by the Director or the State Mining and Geology Board to be necessary for consideration of the reclamation plan.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.090 - Reclamation Standards.

Surface mining operations shall comply with the requirements of the California Surface Mining and Reclamation Act, the State Policy for Surface Mining and Reclamation Practice, and any standards or procedures adopted by the Board of Supervisors to implement the Act, State policy, or this Chapter. Properties used for surface mining operations shall be reclaimed after the operation, or an approved phase of the operation, has been completed in accordance with the following minimum development standards:

- (A) Reclamation shall in all cases be completed within the time schedule set forth in the approved reclamation plan. In all cases reclamation shall commence not later than twelve (12) months following termination of the excavation operation or approved phase. However, the operator is required to proceed as soon as practicable and may be required to progressively rehabilitate the site as the excavation operation or approved phase is completed.
- (B) Final reclaimed slopes, abandoned spoil piles and the entire mining site shall be graded and smoothed as necessary so as to control erosion, prevent the creation of potentially dangerous areas and present a natural appearance.

The grades of final reclaimed slopes shall be no steeper than two (2) horizontal to one (1) vertical unless a steeper angle of repose is recommended as safe and self-supporting by a registered Civil Engineer qualified in the field of soils engineering and soil mechanics. Fill slopes flatter than 2:1 will generally be acceptable. Final reclaimed fill slopes, including permanent piles or dumps of mine waste rock and overburden, shall not exceed a slope greater than 2:1 (horizontal:vertical) without a geological engineering analysis of stability. In pits, slopes below the minimum water level shall be no steeper than the natural angle of repose.

- (C)

Resoiling, when required, shall be accomplished in the following manner: coarse, hard material shall be graded and covered with a layer of finer material or weathered waste and a soil layer then placed on this prepared surface where practical. Where quantities of available soils are inadequate to provide cover, native materials should be upgraded to the extent feasible for this purpose.

- (D) All permanently exposed lands that have been denuded by mining operations shall be revegetated unless any such revegetation is determined by the lead agency to be technically infeasible or not beneficial with respect to the intent of this Section. Revegetation methods and plant materials utilized shall be appropriate for the topographical, soil and climatic conditions present at the site and designed to meet the requirements of the ultimate land use as specified in the reclamation plan. Native species shall be used wherever practical.
- (E) Where mining will occur between the banks of a watercourse, streambed channels and streambanks affected by the operation shall be rehabilitated annually prior to seasonal high water so as to minimize erosion and sedimentation and so as to minimize undermining or damage to off-site public or private property, improvements or structures.
- (F) Reclamation plans shall make provisions to ensure that the mining site is left in a final condition after operations are complete, that is:
 - (1) Safe with stable waste piles, cut slopes, fill slopes and with the elimination of steep-sided pits and holes;
 - (2) Free of derelict machinery, waste materials, mining waste and scrap;
 - (3) Revegetated where necessary for soil stabilization;
 - (4) Free of drainage problems;
 - (5) Free of toxic substances in fill material;
 - (6) Coordinated with present and potential future land use, topography and the general environment of surrounding property.
- (G) Unless a water-filled excavation is recognized in the reclamation plan as an integral part of future development or use of the property, all excavations made to a level below the highest seasonal ground water table shall be filled with inert materials to a level above the highest seasonal ground water table and with slopes less than the critical gradient.
- (H) Regrading and revegetation shall be designed and carried out to minimize erosion, provide for drainage to natural outlets or interior basins designed for water storage, and to eliminate potholes and similar catchments that could serve as breeding areas for mosquitoes, sites of fish entrapment, or threats to public safety.
- (I) Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlets to lower ground.
- (J) Final grading and drainage shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to mining operations.

- (K) Upon reclamation, no condition shall remain which will or could lead to the degradation of water quality below applicable standards of the Regional Water Quality Control Board or any other agency with authority over water quality.
- (L) Where ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the reclamation plan shall provide for the compaction of fill materials in conformance with good engineering practice and with the standards contained in the Uniform Building Code (UBC).
- (M) The removal of vegetation and overburden, if any, in advance of surface mining shall be kept to the minimum.
- (N) Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.
- (O) Operations shall be conducted to substantially prevent siltation of groundwater recharge areas.
- (P) All reasonable measures shall be taken to protect the habitat of fish and wildlife.
- (Q) Permanent piles or dumps of mine waste rock and overburden shall be stable and shall not restrict the natural drainage without suitable provisions for diversion.
- (R) Grading and revegetation shall be designed to minimize erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage.
- (S) When the reclamation plan calls for resoiling, coarse hard mine waste shall be leveled and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Surface mines that did not salvage soil during their initial operations shall attempt, where feasible, to upgrade remaining materials. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the reclamation plan or where such measures appear necessary as determined by the Director or the Natural Resources Conservation Service. It shall not be permissible to denude adjacent areas of their soil to achieve this purpose.
- (T) Revegetation methods and the selection of species shall be suitable for the topographical, resoiling characteristics, and climate of the mined areas and shall be reviewed and approved by the Director or the Natural Resources Conservation Service.
- (U) Surface mining operations shall be consistent with the goals and policies of the Mendocino County General Plan.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.100 - Application of Plan to Specific Site.

The reclamation plan shall be applicable to a specific piece of property or properties, and shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.110 - Idle Mines.

- (A) Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Department of Planning and Building Services, for review and approval, an interim management plan which shall not be considered a project within the meaning of the California Environmental Quality Act (CEQA).
- (B) The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this Chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this Chapter, including, but not limited to, all permit conditions.
- (C) Prior to County approval, interim management plans shall be submitted for review to the Department of Conservation for a thirty (30) day review period.
- (D) The Director may approve an interim management plan without a public notice or public hearing if the Director determines that the interim management plan does not require significant changes to the reclamation plan. The decision of the Director shall be appealable to the Planning Commission within ten (10) calendar days of the decision. The decision of the Planning Commission shall be appealable to the Board of Supervisors with ten (10) calendar days of the decision. Appeals must be in writing together with the appropriate appeal fee.
- (E) The interim management plan may remain in effect for a period not to exceed five (5) years, at which time the Director shall do one (1) of the following:
 - (1) Renew the interim management plan for another period not to exceed five (5) years, if the Director finds that the surface mining operator has complied fully with the interim management plan;
 - (2) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.
- (F) In any event, financial assurances required shall remain in effect during the period the surface mining operation is idle. If the surface mining operation is still idle after expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.
- (G) Within sixty (60) days of the receipt of the interim management plan or a longer period mutually agreed upon by the County and the operator, the County shall review and approve the plan in accordance with this Chapter and so notify the operator in writing of any deficiencies in the plan. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the County, to submit a revised plan.
- (H) The Director shall approve or deny approval of the revised interim management plan within sixty (60) days of receipt. If the Director denies approval of the revised interim management plan, the operator may appeal the action to the Planning Commission within ten (10) calendar days of the decision. The action of the Planning Commission may be appealed to the Board of Supervisors within ten (10) calendar days of said action. Appeals must be in writing together with the appropriate appeal fee.

- (I) Unless review of an interim management plan is pending before the Director, or an appeal is pending before the Planning Commission, a surface mining operation which remains idle for over one (1) year after becoming idle as defined in this Chapter without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plans.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.120 - Financial Assurances.

- (A) Financial assurances are required to secure performance of the reclamation plan approved for each surface mining operation to which this Chapter applies and shall be sufficient to perform reclamation of lands remaining disturbed. Financial assurances determined to substantially meet these requirements shall be approved by the County of Mendocino for purposes of this Chapter.
- (B) The County of Mendocino shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:
 - (1) Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the State Mining and Geology Board pursuant to Public Resources Code Section 2773.1(e), which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.
 - (2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.
 - (3) The amount of financial assurances required of a surface mining operation for any one (1) year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.
 - (4) The financial assurances shall be made payable to the County of Mendocino and the Department of Conservation. Financial assurances that were approved by the County prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the Department of Conservation for purposes of this Chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the County, the County shall deem those financial assurances adequate for purposes of this Section, or shall credit them toward fulfillment of the financial assurances required by this Section, if they are made payable to the public agency, the County of Mendocino, and the Department of Conservation and otherwise meet the requirements of this Section. In any event, if the County and one (1) or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances

required by the County and the public agencies for any one (1) year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

- (5) Estimates for financial assurances shall include descriptions of the tasks to be performed, identification of equipment, labor and materials requirements, definition of units costs, total cost per task, total direct cost of reclamation, and administrative costs including costs of supervision, profit and overhead, contingencies and mobilization. Additional required information may include a site plan showing the present limits of the disturbed area to be reclaimed, and other information necessary to verify the estimate. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, that the County or State may need to contract with a third-party commercial company for reclamation of the site.
- (C) Financial assurances determined not to substantially meet the requirements of Public Resources Code Section 2773.1 shall be returned to the operator within sixty (60) days. The operator has sixty (60) days to revise the financial assurances to address identified deficiencies, at which time the revised financial assurances shall be returned to the County for review and approval.
- (D) Prior to County approval, financial assurances shall be forwarded to the Department of Conservation pursuant to Section 22.16.130.
- (E) The decision to approve financial assurance estimates and mechanisms shall be made by the Director. The financial assurance estimates shall be based on an approved reclamation plan. No public notice or public hearing is required. The decision to approve financial assurance estimates and mechanisms is not subject to CEQA. The Director shall notify the affected party (mine owner/operator) in writing within ten (10) days of his determination. The Director's decision is appealable to the Planning Commission within ten (10) calendar days of the decision. The decision of the Planning Commission is appealable to the Board of Supervisors within ten (10) calendar days of the decision. Appeals must be in writing together with the appropriate appeal fee.
- (F) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the County, which shall be forwarded to the operator and the Director of the Department of Conservation, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances are secured from the new owner and have been approved by the County in accordance with Section 2770.
- (G) If the County of Mendocino, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, the Director shall do all of the following:
 - (1) Notify the operator by certified mail that the County intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.

- (2) Allow the operator sixty (60) days to commence or cause the commencement or reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the County and the operator.
- (3) Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with Section 20.16.120(G)(2), above.
- (4) Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.130 - Review of Reclamation Plans, Interim Management Plans, Financial Assurances and Amendments.

- (A) The procedures established in the Mendocino County Code for the issuance, modification, enforcement of conditions, and revocation of a use permit, including the requirements for public hearings, shall be followed for the review, approval and administration of a reclamation plan and/or the issuance and administration of a permit. Fees as established by the Board of Supervisors shall be paid at the time of filing.
- (B) Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the County, or any amendments, the County shall submit the plan, assurances, or amendments to the Director of the Department of Conservation for review.
- (C) The Director of the Department of Conservation shall have thirty (30) days to prepare written comments, if the Director of the Department of Conservation so chooses. The County shall evaluate written comments received from the Director of the Department of Conservation during the thirty (30) day comment period. The County shall prepare a written response describing the disposition of the major issues raised. In particular, when the County's position is at variance with the recommendations and objections raised in the Director of the Department of Conservation's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the County shall be forwarded to the operator.
- (D) The County shall notify the Director of the Department of Conservation of the filing of an application for a permit to conduct surface mining operations within thirty (30) days of such an application being filed (and determined complete) with the County. By July 1st of each year, the County shall submit to the Director of the Department of Conservation for each active or idle mining operation a copy of any

permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the Director of the Department of Conservation the information required under this Section shall be cause for action under PRC Section 2774.4.

- (E) Whenever surface mining operations are proposed in the one hundred year (100-year) flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA), and within one (1) mile, upstream or downstream, of any State highway bridge, the County shall notify the California Department of Transportation (Caltrans) which shall have a period of not more than forty-five (45) days to review and comment on the proposed surface mining operations with respect to any potential damage to the State highway bridge from the proposed surface mining operations. The County shall not issue or renew the permit until Caltrans has submitted its comments or until forty-five (45) days from the date the application for the permit was submitted, whichever occurs first.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.140 - Annual Inspections and Reports.

- (A) As a condition of approval of the permit and reclamation plan, a schedule for annual inspections of the site shall be established to evaluate continuing compliance with the permit and reclamation plan.
- (B) Surface mining operators shall forward an annual status report to the Director of the Department of Conservation and to the County on a date established by the Director of the Department of Conservation (no later than July 1st of each year) upon forms furnished by the State Mining and Geology Board.
- (C) The Department of Planning and Building Services shall conduct an inspection of a surface mining operation within six (6) months of receipt by the Department of Planning and Building Services of the surface mining operation's report submitted pursuant to Subsection 22.16.140(B) above, solely to determine whether the surface mining operation is in compliance with this Chapter. In no event shall the Department of Planning and Building Services inspect a surface mining operation less than once in any calendar year.
- (D) All inspections shall be conducted using a form developed by the Department of Conservation and approved by the State Mining and Geology Board. The operator shall be solely responsible for the reasonable cost of the inspection.
- (E) The Department of Planning and Building Services shall notify the Department of Conservation within thirty (30) days of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mine's compliance with this Chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operation, if any, are inconsistent with this Chapter.
- (F)

If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending, or an appeal pending before the State Mining and Geology Board, the Mendocino County Planning Commission or the Mendocino County Board of Supervisors, the notice shall so indicate.

- (G) The Department of Planning and Building Services shall forward to the operator a copy of the notice and any supporting documentation, including, without limitation, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.150 - Vested Mines—Reclamation Plan, Financial Assurances, and Inspections Required.

- (A) No person who has obtained vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure any permit pursuant to the provisions of this Chapter as long as such vested right continues and no substantial change is made in that operation. Any substantial change in a vested surface mining operation subsequent to January 1, 1976, shall require the granting of a permit pursuant to this Chapter. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has, in good faith, and in reliance upon a permit or other authorization if such permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the issuance of a permit related to the surface mining operation shall not be deemed liabilities for work and materials.
- (B) Nothing in this Chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were completed prior to January 1, 1976.
- (C) A person who has a vested right to conduct surface mining operations prior to January 1, 1976, shall as a condition of commencing or continuing his operation shall have had submitted on or before March 31, 1988, to the Department of Planning and Building Services for approval by the Planning and Building Services Director, and had an approved reclamation plan by July 1, 1990, or be on appeal to the State Mining and Geology Board. Those operations which did not receive a vesting status by July 1, 1990, shall have ceased operations on July 1, 1990. The reclamation plan shall contain the same provisions for financial assurances and inspections as those required for non-vested mines.

Any mine without an interim management plan for more than one (1) year after becoming idle is considered abandoned and a vesting status shall not be granted to such site/operation.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.160 - Amendments.

Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan, as determined by the Director, shall not be undertaken until such amendment has been filed with, and approved by the Planning Commission.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.170 - Minor Reclamation Plan Modifications.

- (A) The Director may review and approve minor plan modifications to approved reclamation plans without public notice or consultation with the Department of Conservation. A minor modification to a reclamation plan may be approved only if it meets the following standards:
- (1) To allow the minor recontouring of final topography affecting no more than ten percent (10%) of the site, provided that slope stability is maintained and documentation provided;
 - (2) To allow minor modifications to existing on-site roads and encroachments directly from the site to a public road, but not including new off-site roads;
 - (3) To allow a minor substitution in the reclamation plan such as a substitution in the type and/or number of plant species, minor change in topsoil treatment, etc., provided it does not substantially alter the intended end-use described in the approved reclamation plan;
 - (4) To allow minor technological or administrative changes in methods used to achieve reclamation;
 - (5) To allow measures to be taken which will ensure or maintain public safety (e.g., fences, gates, signs, or hazard removal), provided such measures do not substantially alter the intended end-use described in the approved reclamation plan;
 - (6) To allow minor modifications to a previously approved phasing plan;
 - (7) To allow compliance with the requirements of other public agencies, provided the requirements are not inconsistent with the approved conditional use permit;
 - (8) A minor modification shall not include changing the end use of the land.
- (B) Applications for a minor modification shall be made on a form provided by and filed with the Department of Planning and Building Services, together with the appropriate filing fee.
- (C) Prior to approval of a minor modification, the Director shall make the following written findings which shall include the reasons for the findings:
- (1) The minor modification is consistent with the approved conditional use permit and does not represent a significant change to the approved reclamation plan for the subject surface mining operations.
 - (2) The minor modification is not subject to CEQA.
- (D) The Director shall approve, conditionally approve, or disapprove an application for a minor modification within forty-five (45) days to accepting the application as complete, and give notice by mail of the decision, including any conditions of approval, to the applicant and any interested parties that have formally requested such notice in writing.

- (E) The decision of the Director regarding a minor modification of a Conditional Use Permit shall be appealable to the Planning Commission within ten (10) days of said decision. The decision of the Planning Commission regarding the appeal shall be appealable to the Board of Supervisors within ten (10) calendar days of said decision. Appeals must be in writing together with the appropriate appeal fee.
- (F) Within thirty (30) days of final action, the Director shall send a copy of an approved minor modification to the Department of Conservation.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.180 - Transferability.

- (A) Whenever one (1) operator succeeds to the interest of another in any incompleting surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this Chapter. Operations authorized by a permit shall be conducted only by the operator named in the permit or by his authorized agent unless a new operator is designated in writing by the land owner to the Department of Planning and Building Services.
- (B) Financial assurances provided by the operator's successor to the County and the Department of Conservation shall have been approved, and the financial assurance mechanism shall be in place prior to the continuation of surface mining operations.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.190 - Public Records.

Reclamation plans, reports, applications, and other documents submitted pursuant to this Chapter are public records, unless it can be demonstrated to the satisfaction of the Director that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The Director shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the Department of Conservation and to persons authorized in writing by the operator and by the owner.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.200 - Enforcement.

- (A) If, after conducting the inspections required by Section 22.16.140, other inspections that may be undertaken, or upon the receipt of a verified complaint by any interested person, the Director finds that the mining operation is not in substantial compliance with this Chapter, the surface mining permit issued, the reclamation plan, or the provisions of SMARA, the operator and owner shall each be sent a Notice of Violation, and given a reasonable time to substantially comply, not to exceed thirty (30) days.

(B)

If the violation continues beyond thirty (30) days after the date of issuance of the Notice of Violation, the Director may issue an order by personal service or certified mail requiring compliance or, if the operator does not have an approved reclamation plan, to cease all further mining activities.

- (C) The permittee may appeal the determination of the Director to the Planning Commission if the appeal is filed in accordance with Chapter 20.208 of the Mendocino County Code within ten (10) days of receipt of the initial notice of violation. If not appealed, the decision of the Director shall be final. The decision of the Planning Commission may be appealed within ten (10) days to the Board of Supervisors.
- (D) Any operator who fails to comply with an order issued by the Director after the order's effective date, or who fails to submit a report to the Director of the Department of Conservation or the County as required by PRC Section 2207, shall be subject to an order by the Director imposing an administrative penalty of not more than Five Thousand Dollars (\$5,000) per day, assessed from the original date of the Director's Notice of Violation or non-compliance with PRC Section 2207. County and Department of Conservation penalties shall not exceed Five Thousand Dollars (\$5,000) per day by each agency.
- (E) In determining the amount of the administrative penalty, the Director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require. An order imposing an administrative penalty shall become effective upon issuance and payment shall be made to the County within thirty (30) days, unless the operator appeals to the Board of Supervisors for review of the order.
- (F) If the operator appeals to the Board of Supervisors for review of the order imposing an administrative penalty, the operator shall be notified by certified mail when the matter has been set for public hearing. The Board of Supervisors may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Director imposing an administrative penalty. Any order of the Board of Supervisors shall become effective upon issuance thereof and shall be served by certified mail upon the operator. Payment of an administrative penalty specified in the Board of Supervisors' order shall be made to the County within thirty (30) days of service of the order.

(Ord. No. 4031 (part), adopted 1999.)

Sec. 22.16.210 - Fees.

The County shall establish such fees as it deems necessary to cover the reasonable direct costs incurred in implementing this Chapter and the applicable State laws, including, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator of the surface mining operation as required by the County at the time of filing of the reclamation plan application, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mine operators.

(Ord. No. 4031 (part), adopted 1999.)